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DIVISION Chief Financial Office	AUTHORITY/REFERENCE ORS 279A.140, 279B.205, and 184.423(1)(j)	
SUBJECT Green Chemistry Procurement Guidelines	APPROVED SIGNATURE 	

PURPOSE

This policy outlines the procurement guidelines required by the management directive of Executive Order 12-05. The purpose of the policy is to revise state procurement practices, reduce toxic chemicals of concern in Products procured by state agencies and used by their contractors, and realize the economic, environmental and public health benefits of Green Chemistry. The policy’s guidelines are designed to empower and support agencies in developing procurement specifications under ORS 279B.205, exercising judgment, and moving toward the goal of the Executive Order with continual improvement. Agencies have options and references to:

- Procure Safer Products (Sections II and III),
- Consider other Sustainability options (Section IV),
- Apply Green Chemistry in buy decisions and procurement methods (Sections V or VI),
- Report information related to the EO goal (Section VII) and
- Utilize other procurement-related resources and tools (Section VIII).

APPLICABILITY State agencies (agency).

ATTACHMENT A. Safer Product Certification or Verification

DEFINITIONS

- A. “**Alternatives Assessment**” means a process for identifying and comparing potential chemical and non-chemical alternatives that can be used as substitutes to replace chemicals or technologies of high concern.
- B. “**Certifier**” means an individual or organization determined by an agency to be competent and qualified to identify a Safer Product. See Section II and Attachment A.

- C. **“Chemicals of Concern”** are chemicals that raise serious environmental or health concerns about risks of injury to health and the environment, including chemicals not on any established agency list, but known to exhibit hazard characteristics of high concern (for example, carcinogenicity, persistence of toxins, endocrine activity, and neurotoxicity).
- D. **“Contractor,”** for purposes of these Guidelines, means a Person, as defined in OAR 125-246-0110(104), who submits an Offer, as defined in OAR 125-246-0110(91), or with whom an agency enters into a Contract, depending on context. “Contractor” has the same meaning as an agency’s vendor, supplier, consultant, or provider.
- E. **“Environmental Product Declaration” or “EPD”** means a standardized report of the environmental impacts of a Product. EPDs are independently verified and developed using Life Cycle assessment data. EPDs may also be developed using predetermined parameters, which are specific to different product categories. ISO 14025 governs EPD guidelines.
- F. **“DEQ Toxics Focus List”** means the list of Chemicals of Concern, compiled and published by the Oregon Department of Environmental Quality (DEQ) at <http://www.deq.state.or.us/toxics/docs/ToxicsFocusList2010-2011.pdf>.
- G. **“Executive Order No. 12-05 ” or “EO”** means the order of Governor John Kitzhaber, signed April 27, 2012, that fosters innovation and encourages new business development of less toxic products and safer alternatives for people and the environment by:
1. Helping businesses take advantage of emerging market opportunities,
 2. Addressing related sustainability challenges, and
 3. Establishing the “Oregon Green Chemistry Innovation Initiative” to help ensure Oregon’s long-term competitiveness in the market for greener technologies.
- H. **“Green Chemistry”** means the design of chemical Products and processes that reduce or eliminate the use or generation of hazardous substances. Green Chemistry applies across the Life Cycle of a chemical Product, including its design, manufacture, use, and ultimate disposal. Green Chemistry principles can be found in the text by Paul Anastas and John Warner (1998), Green Chemistry: Theory and Practice, Oxford University Press: New York.
- I. **“Green Washing,”** for the purpose of these Guidelines, means deception, unjustified claims, or misrepresentation that a Product or its Life Cycle is a Safer Product and will realize the environmental and public health benefits of Green Chemistry principles, without providing proof or qualification.
- J. **“Guidelines”** means a statement or other indication of Policy or procedure by which to determine a course of action. The EO uses the term, “Guidelines,” and for these purposes, “Guidelines” means the same as “Policy.” Both terms equally express Policy.
- K. **“Life Cycle”** means the life cycle of a Product, including design, raw material extraction, manufacture, transportation, use, and disposal (cradle to grave) or recovery (cradle to cradle).

- L. **“Life Cycle Analysis” or “LCA”** means a quantitative compilation and evaluation of the inputs (such as energy and raw materials), outputs (such as emissions and wastes), and potential environmental impacts of a Product throughout its Life Cycle.
- M. **“Life Cycle Costing”** means an analysis method that considers quantifiable economic costs over the Life Cycle of a Product, including the costs of acquiring, operating, supporting and disposing of a Product. The method may include quantifiable costs that relate to an adverse impact of a Product, for example, impacts to the environment or public health.
- N. **“Policy”** means a governing principle or plan that establishes the general parameters for the agency to follow in carrying out its responsibilities.
- O. **“Procurement”** means the act of purchasing, leasing, renting or otherwise acquiring or selling: Supplies and Services; Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services and Related Services; and Public Improvements. Procurement includes each function and procedure undertaken or required to be undertaken by an Authorized Agency to enter into a Public Contract, administer a Public Contract and obtain the performance of a Public Contract under the Public Contracting Code and OAR 125-246 through 279. Procurement includes Contract Administration, and Contract Administration includes Amendments. See OAR 125-246-0110 for the definitions of words capitalized in this definition of Procurement.
- P. **“Products”** means Goods or Supplies as defined in OAR 125-246-0110. For the purposes of these Guidelines, Products may also include Services that impact Products or use Products.
- Q. **“Safer Chemical”** means any chemical used as a replacement for a Chemical of Concern that the agency identifies, based on analyses referenced in these Guidelines, as reducing chemical hazard and exposure risks to human health and the environment, while still maintaining the functionality and performance the agency requires.
- R. **“Safer Products”** means a Product that is determined by the agency to have substantially less Chemicals of Concern, compared to a Product with Chemicals of Concern. For the purposes of these Guidelines, Products may also include Services that impact Products or use Products. “Safer Products” is a generic term and is not associated with any entities with names that include the term “safer products.”
- S. **“Services”** means Personal Services, Trade Services, or any combination thereof as defined in OAR 125-246-0110.
- T. **“Sustainability”** means using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives (ORS 184.421).

GUIDELINES

I. INTRODUCTION

- A. **Priority.** The Guidelines give priority to the procurement of Safer Products. Under ORS 184.421, Agencies are encouraged to include other Sustainability criteria as options that are usually complementary with Safer Products. It is beyond the scope of the Guidelines to resolve potential, specific trade-off scenarios, which will call for agencies to acquire related knowledge, consult with experts, and document their decisions.
- B. **Sole Discretion of the Agency.** The agency has the sole discretion to determine the specification content of procured Products (ORS 279B.205). An agency's specifications will seek to promote optimal value and suitability for the purposes intended and to reasonably encourage competition in satisfying an agency's needs (ORS 279B.205). The Guidelines assist agencies in exercising their sole discretion to develop procurement specifications, which will seek to promote optimal value and suitability for the agencies' purposes and to reasonably encourage competition in satisfying an agency's needs (ORS 279B.205). Optimal value and suitability includes Sustainability (ORS 184.421 & .423).
- C. **Responsibility of Contractors.** Contractors who offer bids, proposals, or quotes will meet standards of responsibility, including integrity (ORS 279B.110). Agency may determine that Contractor is not responsible under OAR 125-247-0640(1)(c)(F)(iii) if the Contractor lacks integrity because of Green Washing.

II. PROCURING CERTIFIED SAFER PRODUCTS

Agency may satisfy the EO by using one of the following Safer Product certifications or verifications (Certifiers). An alternative to Section II is provided in Section III.

- A. **Third-Party Certification.** See Attachment A, Safer Product Certification or Verification.
- B. **Shared Third-Party Certification.** Agency is encouraged to share recommended third-party Certifiers, for example, to purchase a brand name Product based on another agency's third-party certification of that Product under this Section.
- C. **Contractor Self-Certification.** Agency is discouraged from accepting self-certification unless agency verifies the reliability of the self-certification. For example, agency may require the Contractor to submit a disclosure form that verifies that the Product contains no Chemicals of Concern (see Definition, Section C), and the Contractor has the burden of proof. Agency may then be advised by a subject matter expert that the information is reliable. For further guidance, see, Lists of Chemicals of Concern, Section III.B.1.b; Disclosure, Section III.B.2; and Subject Matter Experts, Section III.B.3.

III. PROCURING SAFER PRODUCTS APART FROM CERTIFICATION

As an alternative to Section II, agency may satisfy the EO by procuring Safer Products available through statewide price agreements (Section III.A); Safer Products identified by criteria, disclosure, experts, and alternative assessments (Section III.B); or Products in line with specific regulatory or court requirements (Section III.C).

A. Safer Products Available through Statewide Price Agreements

1. **Janitorial and Industrial Products.** Agency is required to purchase Safer Products from the Oregon and Washington mandatory price agreements, numbers 3401, 3402, 3403, and 3400, for janitorial and industrial products in seven categories. For the solicitation requirements and these price agreements, use the document search feature in the Oregon Procurement Information Network at <http://oregon.gov/DAS/EGS/PS/Pages/eprocurement.aspx>.
2. **Other Safer Products.** When DAS provides future price agreements for Safer Products based on Green Chemistry principles, agency will be expected to purchase Safer Products from these price agreements or communicate with the Governor's Office or DAS about the facts and reasons that agency did not make these purchases. A communication process may be provided at a later time.

B. Safer Products Identified by Criteria, Disclosure, Experts, and Alternative Assessments

1. **Procurement Criteria that Include Chemicals of Concern.**
 - a. **Agency's Objectives.** Agency will describe its need to procure a Safer Product, based on Green Chemistry principles, and this need may also include Sustainability options described in Section IV below. ORS 279ABC gives agency the discretion to some extent to vary the form and method of procurement, for example, mandatory and discretionary requirements for proposals or specifications for bids, quotes, and orders (collectively, criteria).
 - b. **Lists of Chemicals of Concern.** At a minimum, agency will require that the DEQ Toxics Focus List (see Definition, Section F) is used for identification of Chemicals of Concern. In addition, agency may require or invite the use of one or more additional lists developed by Oregon or national government agencies, including but not limited to:
 - i. DEQ's Priority Persistent Pollutant (P3) list for water quality, developed in response to state legislation, at <http://www.deq.state.or.us/wq/SB737/docs/P3LTechnicalDetailsFinal.pdf>.
 - ii. Center for Disease Control and Prevention (CDC) National Biomonitoring Program environmental chemicals list at: http://www.cdc.gov/biomonitoring/environmental_chemicals.html.
 - iii. The Environmental Protection Agency (EPA) Priority Chemical List for waste minimization at <http://www.epa.gov/epawaste/hazard/wastemin/priority.htm>. The EPA no longer updates this information but it may be useful as a resource.

- iv. The list of the International Agency for Research on Cancer (IARC), published by the American Cancer Society at <http://www.cancer.org/cancer/cancercauses/othercarcinogens/generalinformationaboutcarcinogens/known-and-probable-human-carcinogens>.
 - c. **Lists of Safer Chemicals.** Agency is encouraged to use one or both of the following lists to evaluate offers of Contractors and claims of safer chemicals.
 - i. **CleanGredients** is an online database of verified information about the environmental and human health attributes of ingredients used in cleaning products. See <http://www.cleangredients.org/home>.
 - ii. **EPA.** The DfE Safer Chemical Ingredients List meets the DfE Safer Chemical criteria and is used for DfE-labeled Products. This is a list of chemicals of less concern, according to the EPA, and Products certified by the EPA may contain these chemicals. See www.epa.gov/dfe/saferingredients.
- 2. Disclosure of Product Information; Forms.**
- a. **Contractors.** Agency will require the Contractor to identify whether the Product contains one or more Chemicals of Concern. By definition, Chemicals of Concern are not limited to one or more lists, if they are known to exhibit hazard characteristics of high concern (such as carcinogenicity, persistence of toxins, endocrine activity, and neurotoxicity). For example, a very minor change in a toxic Product's chemical formula may remove it from a list but not reduce its toxicity. Agency may provide to the Contractors agency's information requirements for each procurement.
 - b. **Other Source.** As an alternative to Subsection 2.a above, agency may obtain this information from a reliable source, for example, the data reported by manufacturers under the Children's Safe Products Act of Washington State and reported to the Department of Ecology at <https://fortress.wa.gov/ecy/cspareporting/>.
 - c. **Disclosure Forms.**
 - i. **The HPD Form.** Agency is encouraged to use the Health Product Declaration (HPD) form at <http://www.hpdcollaborative.org/>. HPD is a tool to report product contents and each ingredient's relationship to human and ecological health. The HPD defines critical information needed to support supply chain disclosure by manufacturers and suppliers and informed decisions by agencies and users. The information is also useful for the future, because emerging chemistry may discover later that a chemical being used today is a Chemical of Concern.
 - ii. **Other Forms.** Agency may develop forms for its specific procurements.
- 3. Subject Matter Expert (SME) Assistance as Needed.** The SME's level of expertise and experience, which an agency needs to evaluate specific Safer Products, may depend upon: Product and process complexity, available data, consistency among SMEs, how a Safer Product may be verified, and funding. An agency may:
- a. Identify an SME within the agency with the needed expertise,
 - b. Request information, referrals and technical expertise from DEQ,
 - c. Contract with an organization with expertise in toxic chemicals Alternatives Assessment, green procurement, or Sustainability, or
 - d. Share an SME with one or more other agencies or organizations for this purpose.

4. **Evaluation of Safer Alternatives.** If a Product contains one or more Chemicals of Concern or hazard characteristics of high concern, even if the chemical is not on any list, then evaluate and determine whether a safer alternative exists. This determination may also be a gradual process as agency reviews its contracts, new alternatives become available, and agency increasingly uses Safer Products.
 - a. **Alternatives Assessment.** Agency may require the Contractor or SME to assess safer alternatives and the options for reducing Chemicals of Concern. Agency may require the Contractor or SME to adhere to the Principles of Alternatives Assessments, found at http://www.turi.org/Our_Work/Research/Alternatives_Assessment. See other optional alternatives assessment tools and references in Subsection 4.b below.
 - b. **Optional Tools and References.**
 - i. The Washington Department of Ecology offers a “Quick Chemical Assessment Tool” (QCAT) for smaller businesses to conduct hazard assessments of Products and chemicals. QCAT is a streamlined version of the Green Screen developed by Clean Production Action and found at <http://www.ecy.wa.gov/programs/hwtr/ChemAlternatives/QCAT.html>. Green Screen is found at <http://www.cleanproduction.org/Greenscreen.php>.
 - ii. In 2014, the Interstate Chemicals Clearinghouse (IC2) released the IC2 Alternatives Assessment Guide to assist businesses and governments in evaluating alternatives to toxic chemicals in Products, help create Safer Products, and reduce the impact that chemicals have on human health and the environment. This guide includes modules for small or large businesses and is found at www.newmoa.org/prevention/ic2/aaguidance.cfm. Examples of state agencies’ alternative assessments are found at <http://www.newmoa.org/prevention/ic2/projects/resource/hazassesstool.cfm>.
 - iii. The University of Massachusetts, Lowell Center, Toxics Use Reduction Institute (TURI) provides an “Alternatives Assessment Framework” and other tools and references at http://www.turi.org/Our_Work/Research/Alternatives_Assessment.

C. **Products Procured according to Regulatory and Court Requirements.**

1. **Generally.** A statute, rule or order having the force of law (Regulation) or court decision may compel agency to use a specific product specification, contrary to the sole discretion of agency to develop specifications under ORS 279B.205 (Requirement). Agency may satisfy the EO by documenting its determination that the Requirement applies to the Product to be procured by agency. If it is unclear whether a Requirement exists and applies to a Product, agency should seek an interpretation and advice from its legal counsel.
2. **Regulation.** One example of a Regulation is Oregon’s Integrated Pest Management (IPM), as defined in ORS 634.650.
 - a. IPM is a coordinated decision-making and action process that uses the most appropriate pest control methods and strategy in an environmentally and economically sound manner to meet agency pest management objectives, including objectives similar to the EO: establishing density of pest populations based on health thresholds and strategies that consider human health and ecological impact.
 - b. The IPM Coordinating Committee implements integrated pest management practices.

- c. Agency may satisfy the EO by relying on and documenting the IPM process and practices when procuring a Product related to the IPM's appropriate pest control methods and strategy.
3. **Court Decision.** One example of a court decision arises when forensic evidence in criminal proceedings is admissible only if the agency uses specific laboratory equipment that requires a Product with Chemicals of Concern. Agency may satisfy the EO by relying on and documenting the specific court limitations that disallow any Safer Product related to admissible forensic evidence.

IV. CONSIDERING SUSTAINABILITY OPTIONS AND PLANS

A. Optional Request for Proposals Criteria. Requirements may include topics such as, but not limited to:

1. Certification standards for the Product, if available,
2. Chemicals of Concern and materials that the agency has chosen to prohibit in the Request for Proposals,
3. Safer Chemicals and materials that the agency has chosen to require in the Request for Proposals,
4. Alternative Products without added Chemicals of Concern (e.g., foam or fabric in furniture that meets fire safety standards without toxic flame retardants),
5. Containers, dispensers, or equipment,
6. Recycled content of Products,
7. Chemical ingredient and safety information to be provided to end users, for example, Safety Data Sheet,
8. Samples of Product for evaluation and testing, if requested by the agency,
9. Description of how the Product is used,
10. Web capabilities, online ordering capability, and off-line ordering process,
11. Forced substitutions not allowed, prior agreement required,
12. Training end users and Contractor's technicians for Product usage, including but not limited to the amount of chemical used and the frequency of use.
13. Reporting of itemized criteria and purchasing,
14. Ongoing certification of its Products, if requested,
15. Packaging,
16. Implementation, Product promotion, and contract management plan,
17. Contractor's Sustainability programs and efforts,
18. Contractor's environmental practices related to the Product,
19. Minority, Women, and Emerging Small Business opportunities (see Executive Order No. 12-03: Promoting Diversity and Inclusion Opportunities for Oregon Minority-Owned, Women-Owned and Emerging Small Businesses),
20. Product end-of-life and take-back addressed by manufacturer,
21. Reduction of negative impacts on indoor air quality, and
22. Other environmental attributes of the Product, for example, greenhouse gas footprint, water footprint, energy use, and water use.

B. Optional Life Cycle Considerations.

1. **Life Cycle Costing.** Agency must consider Life Cycle Costing during planning for a Competitive Sealed Bidding or a Competitive Sealed Proposal sourcing method, and Life Cycle Costing is optional for other sourcing methods, under OAR 125-247-0170.
2. **Life Cycle Analysis and Related Analyses.** A Life Cycle Analysis (LCA) following the International Organization of Standardization (ISO) standards typically requires considerable time and funding. Agency may require or encourage Contractors to complete LCAs for their Products, and to share the LCA results with the agency in the form of the LCA document or through ISO-compliant Environmental Product Declarations (EPDs).
 - a. If requesting that a Contractor provide LCA results, agency is strongly encouraged to request an LCA document or EPD that complies with ISO standards 14040/14044 and 14025, respectively.
 - b. If reviewing an LCA document or EPD provided by a Contractor, agency is strongly encouraged to first confirm that the LCA document or EPD complies with ISO standards 14040/14044 and 14025, and if not, to disregard the document. In all cases, agency is encouraged to pay particular attention to the following topics:
 - i. **Key Assumptions and Boundaries of the Analysis.** For example, whether the evaluation ends at the point of final manufacture (“cradle to gate”) or extends to include impacts associated with use and end-of-life management (“cradle to grave”). For some Products, cradle to gate analyses are sufficient. But for Products that have significant impacts associated with their use and/or disposal, cradle to grave analyses are preferable.
 - ii. **Supply Chain Impacts.** At a minimum, LCAs must address not only the impacts associated with the final Product (e.g., energy used by the final manufacturer), but also impacts associated with the final manufacturer’s supply chains. These impacts are often far greater than the impacts at the point of final production or assembly.
 - iii. **Comparative Assertions.** If Contractor makes comparative assertions regarding the environmental impacts of one Product or option versus another, agency will confirm that such claims are consistent with the findings of a report that complies with ISO 14040/14044, and in particular requirements specific to comparative assertions and critical review. Agency is also encouraged to review the findings of the critical review panel.
 - c. A likely scenario will be where one Contractor presents an LCA or LCA results, and competing contractors do not. The Product with the LCA is not necessarily the lower-impact alternative. However, the act of having conducted an LCA indicates that the brand owner has made a significant effort to understand the environmental impact of their Product. All other things being equal, agency may give preference to a Product for which an ISO-compliant LCA or EPD is provided, versus competing Products for which ISO-compliant LCAs or EPDs are not provided.
 - d. Agency may receive more than one LCA document or EPD for competing Products. Unless similar data sets and accounting standards are used, results of separate and independent studies are likely not comparable, and agency should not assume that the LCA document or EPD claiming the lower impact is in fact the less-impactful option.

EPDs of two or more Products that were produced using the same product category rules (PCRs) are meant to be directly comparable. However, since the field of LCA is still developing and some PCRs allow considerable latitude in performing analyses, caution should be exercised even when comparing EPDs that are generated from the same PCR.

- e. The field of LCA has changed and advanced significantly in recent years and will likely continue to do so for some time. Agency is encouraged to review general information regarding LCAs and any periodical updates.
- f. The relevant ISO standards, while potentially cumbersome, protect users against the misuse of LCA and LCA results, which is why agencies are strongly encouraged to only consider ISO-compliant LCAs and EPDs. In exceptional cases, agency may consider Life Cycle Analyses or streamlined analyses that are not ISO compliant, but only with extreme caution and after review of general information regarding LCAs and any periodical updates.

C. Examples of Green Criteria Developed by Others.

1. City of Portland provides examples of green criteria and case studies at: www.portlandoregon.gov/buygreen.
2. Oregon Multnomah County Purchasing developed a sustainable language library, sample solicitations, checklists, anecdotes, and other related tools. See <http://web.multco.us/purchasing/sustainable-purchasing>.
3. New York State Department of Environmental Conservation and Office of General Services-Procurement Services developed 28 green specifications for 63 products (2012). See <http://www.ogs.ny.gov/EO/4/ApprovedSpecs.asp>.

V. MAKING BUY DECISIONS WITH GREEN CHEMISTRY PRINCIPLES

Agency will make buy decisions before agency procures Products and Services in the open market (OAR 125-247-0200). If the buy decisions do not meet the agency's need for a Safer Product, then agency may procure in the open market, described in Section VI.

- A. **Surplus Property under OAR 125-050-0100 through 125-050-0400.** Agency is encouraged to purchase surplus Safer Products that meet Green Chemistry standards in addition to achieving efficiency by using existing resources. See <http://www.oregon.gov/DAS/EAM/SURPLS/pages/index.aspx>.
- B. **Qualified Rehabilitation Facilities under ORS 279.835 TO 279.855 (QRF).** Agency is encouraged to require a Safer Product, including Services using Safer Products, from the QRF and apply these Guidelines. If two or more QRFs are available, agency may negotiate with a QRF to provide a Safer Product, purchased from a statewide price agreement or otherwise verified by a subject matter expert, with the understanding that agency may negotiate with other QRFs, if needed. See <http://www.oregon.gov/DAS/EGS/ps/Pages/QRF%20Menu.aspx>.

- C. **Inmate Labor under Oregon Constitution, Article 11, Sec. 41.** Agency is encouraged to use inmate labor and the Safer Products that they manufacture or distribute. The Oregon Corrections Enterprises (OCE) is a semi-independent state agency with a constitutional mandate to create work opportunities for inmates that teach marketable work skills while providing high quality products to government agencies.

OCE has a major initiative to manufacture Safer Products and offer Sustainable alternatives, in partnership with its vendors. Products can be customized to meet the agency's Green Chemistry requirements. Plywood hardwood and specialty panels may be produced for Leadership in Energy and Environmental Design (LEED) points. Mattresses are produced without toxic flame retardants and at a lower cost. Safer Products include: furniture, printing, laundry, and lower-emitting diesel truck leases. See <http://www.oregon.gov/OCE/pages/index.aspx>.

- D. **Statewide Price Agreements under OAR 125-247-0296.** See Section III.A above. In addition, DAS Procurement Services provides statewide price agreements offering green Products, for example, office supplies, tires, office computer products, and e-waste disposal.

If the terms of a statewide price agreement permit amendments and renegotiations, agency is encouraged to request alternative Safer Products under the modified price agreement and apply the Guidelines. DAS may also request approval of a special procurement under ORS 279B.085 to modify an existing statewide price agreement in order to provide Safer Products.

- E. **Agreements among Public Bodies.** Agency is encouraged to apply the Guidelines and acquire Safer Products from a public body through interagency, intergovernmental, interstate, tribal, and international agreements under ORS 190.

VI. PROCURING IN THE OPEN MARKET WITH GREEN CHEMISTRY PRINCIPLES

A. Procurement Methods.

1. **Supplies and Services.** The Guidelines apply to the following procurement methods:
 - a. **Small Procurement under ORS 279B.065.** Small direct awards may foster innovation and encourage new business development that helps firms take advantage of emerging market opportunities. An agency may award multiple small contracts in order to compare different Safer Products offered by Contractors, and this business reason distinguishes the process from fragmenting. Also, see Special Procurement below (Subsection A.1.g).
 - b. **Intermediate Procurement under ORS 279B.070, aka Informal Requests for Quotes, Bids, or Proposals.**
Consider the benefits of informal requests for quotes, bids or proposals and timing.
 - c. **Competitive Sealed Bidding under ORS 279B.055, aka formal Invitations to Bid.**
Consider specifications' risk and costs, price focus, limited criteria, and no negotiation.
 - d. **Competitive Sealed Proposals under ORS 279B.060, aka formal Requests for Proposals.**
Consider benefits of Contractors' innovations, subjective criteria, and negotiation.

- e. **Sole Source Procurement under ORS 279B.075.** Agency may:
 - i. Identify Products with Chemicals of Concern,
 - ii. Assess alternative Safer Products,
 - iii. Request approval of a brand that meets Green Chemistry standards, and
 - iv. Negotiate that terms, such as length of contract and payments, will depend on the provider's successful transition to alternative Safer Products.
 - f. **Emergency Procurement under ORS 279B.080.** Agency will:
 - i. With the authorization of the head of the agency or delegate, document the nature of the emergency, as defined in ORS 279A.010(1)(f), and describe the method used for the selection of the Contractor.
 - ii. Under OAR 125-247-0280, exercise discretion to enter into an emergency contract without a competitive solicitation, but regardless of the dollar value, encourage competition that is reasonable and appropriate under the emergency circumstances. For construction services that are not Public Improvements, ensure reasonable and appropriate competition, including a solicitation time and informal requests for offers, or make direct appointments without competition in cases of extreme necessity.
 - iii. Except in cases of extreme necessity and when competition is reasonable and appropriate, request Safer Products to avoid compounding the emergency's effects.
 - g. **Special Procurement under ORS 279B.085.**
 - i. If an agency desires to award multiple, smaller contracts to Contractors for Safer Products, an approved special procurement may seed a market to provide new or emerging Safer Products. In Phase 1, agency would award short-term small contracts to Contractors providing Safer Products. Contractors and agency would gain knowledge and experience with the Products and each other, while contracts provide incentives to develop the market in line with the EO. This business reason distinguishes the process from fragmenting. Phase 2 would be a competitive process for a larger, longer-term contract.
 - ii. A client services special procurement under OAR 125-247-0288(2) would support a public-private pilot program, encouraging caseworkers and clients to choose to purchase Safer Products for better health, safety and environment. The caseworkers and clients would purchase from one or more local retail businesses that screen the Products based on Green Chemistry and Sustainability principles, market Safer Products, and supply reports of usage to the agency and, upon request, DAS.
2. **Public Improvements.** The Guidelines apply to the following procurement methods:
- a. Selection procedures for consultants providing architectural, engineering, photogrammetric mapping, transportation planning, land surveying and related services (A&E services) under ORS 279C.110, 279C.120, and 279C.125.
 - b. Competitive Bidding under ORS 279C.335(1).
 - c. Non-competitive Awards less than \$5,000 under ORS 279C.335(1).
 - d. Competitive Quotes under ORS 279C.412 and 279C.414.
 - e. Exempted Competitive Proposals under ORS 279C.335, 279C.400 to 279C.450.
 - f. Other Exempted Alternative Contracting Methods under ORS 279C.335.

- B. **Negotiation.** If allowed under ORS 279ABC and related rules, agency is encouraged to negotiate for Safer Products prior to a new purchase, when amending a contract, and during renegotiation of a contract.
- C. **Contract Administration Plan.** In a solicitation, agency may require Contractors to submit a Green Chemistry Plan with their Offers. For example, the Plan may include a transition to Safer Products. The Plan may, but does not need to, be scored or evaluated in the selection process. During negotiations, if allowed under ORS 279ABC and related Rules, or contract administration planning, agency may require implementation of the Plan.
- D. **Contract Administration Compliance Measures.** During contract administration or prior to contract renewal, agency is encouraged to use measures for performance, like inspections, tests, and reviews for compliance with the Guidelines.

VII. REPORTING INFORMATION RELATED TO THE EO GOAL

- A. **Requirement.** The EO states that DEQ, Business Oregon, and DAS will identify and use relevant metrics to assess the reduction of Chemicals of Concern through procurement.
- B. **Metrics.** At a minimum, the standards of measurement include:
 - 1. A baseline, when possible, prior to the application of the EO or Guidelines,
 - 2. The agency's contract resulting from the application of the EO or Guidelines (Contract),
 - 3. The type or category of Products under the Contract,
 - 4. The quantity and value of purchased Products in a given time period, and
 - 5. Changes as a result of the application of the EO or Guidelines.

Metrics are subject to change by DEQ, Business Oregon and DAS.

- C. **Data Collection and Reporting.** DEQ, Business Oregon, and DAS will develop specific guidance for metrics, data collection, and reporting in consultation with interested agencies. Where possible, agencies are to retain data on past purchases for comparative purposes. Agencies will assist DEQ, Business Oregon, and DAS and furnish such information and advice as DEQ, Business Oregon, and DAS need in order to meet the reporting requirement.

VIII. UTILIZING OTHER RESOURCES

- A. **Green Purchasing Resources.**
 - 1. **City of Portland.** For considerable green purchasing information, see www.portlandoregon.gov/buygreen.

2. **Oregon Multnomah County Purchasing.** For a list of resources, including checklists, materials, examples, and anecdotes, see <http://web.multco.us/purchasing/sustainable-purchasing>.
3. **The Green Government Database.** For a searchable directory of county green strategies, tools, policies, staff descriptions, and more, see: <http://www.naco.org/programs/csd/Pages/GreenGovernmentDatabase.aspx>.

B. Subject Matter Expert Services and Collaborators.

1. **Responsible Purchasing Network (RPN).** RPN is “an international network of buyers dedicated to socially responsible and environmentally sustainable purchasing. Its membership program and consulting services provide institutional purchasers with cutting edge procurement tools and resources designed to save money, conserve resources, reduce waste, and improve efficiency.” See: <http://www.responsiblepurchasing.org/>.
2. **Sustainable Purchasing Leadership Council (SPLC).** SPLC brings together leaders to simplify, optimize and standardize the practice of sustainable procurement, provide guidance, and recognize leadership in order to drive social, environmental, and economic sustainability. See <http://www.purchasingcouncil.org>.
3. **Sustainable Supply Chain Community of Practice.** For information about collaborators in a sustainable supply chain community, see: <https://www.data.gov>.

C. Product and Chemical Assessment Tools and Guidance.

1. **3E Green Product Analyzer™ (GPA)** is a tool that assesses environmental, health and safety (EH&S) compliance for chemical products. It provides information that can help retailers compare products and measure improvement. See <http://www.greenchemistryandcommerce.org/retailer-portal/overview>.
2. **BizNGO Guide to Safer Chemicals** is creating the principles, tools, and resources essential to businesses implementing safer chemicals management programs. See <http://www.bizngo.org/safer-chemicals/guide-to-safer-chemicals>.
3. **Chemical Compliance Systems (CCS)** is proprietary software that uses customized portions of the CCS Relational Chemical and Product Database ([R-CPD](#)) and generates capabilities for unique, holistic, product analysis and compliance capabilities. See <http://www.chemply.com/>.
4. **EarthSure** applies to a variety of Products. EarthSure environmental product declarations (EPDs) can cover a portion of the life cycle of a Product or an entire life cycle. Products in any sector can obtain EPDs as the EarthSure program has codes for all sectors of the economy. See <http://iere.org/programs/earthsure/>.

5. **GreenScreen** is a method for comparative Chemical Hazard Assessment (CHA) that can be used for identifying chemicals of high concern and safer alternatives. See <http://www.cleanproduction.org/Greenscreen.php>.
6. **GreenWERCs Chemical Screening Tool** exists for retailers to screen Products from suppliers. See www.greenchemistryandcommerce.org.
7. **iSustain Green Chemistry Index** provides a methodology to generate a sustainability-based score for chemical products and processes. See <https://www.isustain.com/>.

ATTACHMENT A

SAFER PRODUCT CERTIFICATION OR VERIFICATION

A. INTRODUCTION:

Agency may meet the EO's Safer Products goal under Section II by relying on the vetting of Safer Products by third-party certification programs or database organizations (Certifiers), which are listed below.

Certification may take several forms. Products may be certified against a standard that always addresses Chemicals of Concern, or Certifiers may have multiple standards (for example, different standards for different types of Products), of which some but not all address Chemicals of Concern. Further, some Certifiers serve to verify product claims made by brand owners; these product claims may or may not address Chemicals of Concern. Agency must understand what is being certified or verified on a case-by-case basis. If the certification or verification does not address the presence (or absence) of Chemicals of Concern for a specific Product or class of Products, then it cannot be used to satisfy the Executive Order.

Outside of this list, other Certifiers exist, particularly for specific categories of Products. An agency and its subject matter expert may determine that other Certifiers can provide a reliable, comprehensive vetting of a Product for Chemicals of Concern and Environmentally Preferable Purchasing. Agency will document this determination in its Procurement File and provide the information to DEQ.

B. CERTIFIERS (in alphabetical order):

1. **Cradle to Cradle (C2C)** applies to a variety of Products and provides a company with a means to demonstrate efforts in eco-intelligent design. Cradle to Cradle Certification is a third-party sustainability label that requires achievement across multiple attributes. See <http://www.c2ccertified.org/>.
2. **EPA Design for Environment (DfE) Safer Product Labeling Program** applies to Products such as cleaners, disinfectants, paints, car and boat products, and firefighting foams, DfE is an EPA partnership program that provides a database of over 2,750 DfE-labeled, industrial and consumer, Safer Products. See <http://www.epa.gov/dfe/pubs/projects/formulat/formpart.htm>.
3. **EPEAT** is a system that helps purchasers evaluate, compare and select electronic products based on their environmental attributes. The system currently covers desktop and laptop computers, thin clients, workstations and computer displays, but will expand to additional electronic product categories over time. See <http://www.epeat.net/>.
4. **GreenGuard** (a division of UL Environment) has the mission to improve human health and quality of life through programs that reduce chemical exposure and improve indoor air quality. GREENGUARD Indoor Air Quality Certified® products must meet standards for

low chemical emissions based on established health criteria from key public health agencies. See <http://www.greenguard.org/en/index.aspx>.

5. **GreenSeal** certifies thousands of products and services that meet science-based environmental standards that are credible and transparent. Green Seal uses a life-cycle approach to ensure tangible reductions in the whole environmental footprint. See <http://www.greenseal.org/>.
6. **Pharos** certifies for building products. Transparent scoring protocols for environmental and health impacts of building products are linked to a library of over 150 certifications. See <http://www.pharosproject.net/>.
7. **SMaRT 4.0 Sustainable Product Standard** is a third party certification that uses a comprehensive life cycle approach to assess the sustainability of Products used in building infrastructures and their interior. SMaRT certifies Products that are screened for at least 1,300 pollutants. The screened Products are rated on a scale from 0 to 100%, indicating the degree that a Product is free of these pollutants. Agency should require that the Product has a 100% rating and follow the guidelines in the Introduction above. See http://mts.sustainableproducts.com/SMaRT_Value.html.
8. **UL EcoLogo** applies to a variety of Products. EcoLogo provides its customers with assurance that the Products and services bearing the logo meet stringent standards of environmental leadership. See <http://www.ecologo.org/en/>.
9. **UL's Environmental Claims Validation (ECV) Service and Label** test a manufacturer's Product and validate that the environmental claims in marketing and packaging materials are factual. See <http://www.ul.com/global/eng/pages/offerings/businesses/environment/about/>.
10. **UL Sustainable Product Certifications & Database** provides a variety of building product evaluations and claim validations (e.g. formaldehyde free), provides a GREENGAURD certification using a third party chemical emission standard on chemical exposure risk, provides Environmental Product Declarations, and has a sustainable products guide. Users of this service will still need to verify compliance with the Guidelines. See <http://www.ul.com/global/eng/pages/offerings/businesses/environment/index.jsp>.
11. **U.S. General Services Administration (GSA) Green Products Compilation** is an extensive list of Products that meets federal regulations for sustainability, some (but not all) of which address Chemicals of Concern. See <https://sftool.gov/greenprocurement>.